



General Assembly

January Session, 2019

Raised Bill No. 7174

LCO No. 4454



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT CONCERNING PRESCRIPTION DRUGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2019*) (a) For the purposes of
2 this section:

3 (1) "Drug" has the same meaning as provided in section 21a-92 of
4 the general statutes;

5 (2) "Participating individual" means an individual resident of this
6 state who is participating in the program;

7 (3) "Participating pharmacist" means a pharmacist who is
8 participating in the program;

9 (4) "Participating pharmacy" means a pharmacy that is participating
10 in the program;

11 (5) "Pharmacist" has the same meaning as provided in section 38a-
12 479aaa of the general statutes;

13 (6) "Pharmacy" has the same meaning as provided in section 38a-
14 479aaa of the general statutes;

15 (7) "Pharmacy benefits manager" has the same meaning as provided
16 in section 38a-479aaa of the general statutes;

17 (8) "Program" means the Connecticut Prescription Drug Program
18 established by the Comptroller pursuant to subsection (b) of this
19 section; and

20 (9) "Program price" means the reimbursement rates and prescription
21 drug prices established under the program.

22 (b) The Comptroller shall, within available appropriations, establish
23 the Connecticut Prescription Drug Program. The purposes of the
24 program shall be to: (1) Purchase outpatient prescription drugs,
25 replenish supplies of outpatient prescription drugs or reimburse
26 participating pharmacies and participating pharmacists for outpatient
27 prescription drugs in order to secure the lowest possible prices and
28 greatest possible rebates for outpatient prescription drugs prescribed
29 to participating individuals; (2) make outpatient prescription drugs
30 available at the lowest possible cost to participating individuals; (3)
31 maintain a list of the most cost-effective and therapeutically effective
32 outpatient prescription drugs available to participating individuals; (4)
33 purchase and provide discounted outpatient prescription drugs to
34 participating individuals; and (5) coordinate a comprehensive
35 pharmacy benefit for participating individuals.

36 (c) (1) As part of the program, the Comptroller shall: (A) Establish
37 eligibility criteria for individual residents of this state, as well as
38 pharmacies and pharmacists, to participate in the program; (B)
39 prescribe an application form for (i) individual residents of this state to
40 become participating individuals, (ii) pharmacists to become
41 participating pharmacists, and (iii) pharmacies to become participating
42 pharmacies; (C) issue to participating individuals a prescription drug
43 identification card containing the information necessary for claims
44 processing; (D) establish a list of preferred outpatient prescription
45 drugs for the program; (E) negotiate with pharmaceutical
46 manufacturers and other persons to secure discounts and rebates for

47 outpatient prescription drugs; (F) establish program prices; (G)
48 adjudicate pharmacy claims and reimburse participating pharmacies
49 and participating pharmacists at program prices; (H) develop a system
50 for allocating and distributing the operational costs of the program, as
51 well as any rebates, to participating individuals; and (I) charge
52 administrative fees to participating individuals, participating
53 pharmacists and participating pharmacies to cover the operational
54 costs of the program, and deposit such fees in the account established
55 under section 2 of this act.

56 (2) As part of the program, the Comptroller may: (A) Purchase
57 outpatient prescription drugs on behalf of participating individuals; or
58 (B) cooperate with other states or regional consortia to purchase
59 outpatient prescription drugs on behalf of participating individuals.

60 (3) The Comptroller may enter into a contract with a pharmacy
61 benefits manager to perform the Comptroller's duties under
62 subdivisions (1) and (2) of this subsection, provided the Comptroller
63 shall require the pharmacy benefits manager to charge such pharmacy
64 benefits manager's lowest available rate to perform such duties.

65 (d) The Comptroller may adopt regulations, in accordance with
66 chapter 54 of the general statutes, to implement the provisions of this
67 section.

68 Sec. 2. (NEW) (*Effective October 1, 2019*) There is established an
69 account to be known as the "Connecticut prescription drug program
70 account" which shall be a separate, nonlapsing account within the
71 General Fund. The account shall contain any moneys required by law
72 to be deposited in the account. Moneys in the account shall be
73 expended by the Comptroller for the purposes of the Connecticut
74 Prescription Drug Program established pursuant to section 1 of this
75 act.

76 Sec. 3. (NEW) (*Effective October 1, 2019*) (a) Each pharmaceutical
77 manufacturer doing business in this state that manufactures a brand
78 name prescription drug and enters into an agreement with another

79 pharmaceutical manufacturer for the purpose of delaying or
80 preventing such other manufacturer from introducing a generic
81 substitute for such drug into the marketplace shall, not later than thirty
82 days after entering into such agreement, send notice to the Insurance
83 Commissioner, in a form and manner prescribed by the commissioner,
84 disclosing the name of such drug.

85 (b) (1) The commissioner shall, not later than thirty days after
86 receiving a notice pursuant to subsection (a) of this section, send notice
87 to each health carrier, as defined in section 38a-1080 of the general
88 statutes, and pharmacy benefits manager, as defined in section 38a-
89 479aaa of the general statutes, doing business in this state. Such notice
90 shall, at a minimum:

91 (A) Disclose the name of the brand name prescription drug that is
92 the subject of the notice the commissioner received pursuant to
93 subsection (a) of this section; and

94 (B) Instruct such health carrier, if such health carrier includes such
95 drug on such health carrier's drug formulary or list of covered drugs,
96 or pharmacy benefits manager, if such pharmacy benefits manager
97 administers a prescription drug benefit that includes such drug, to
98 immediately reduce the cost of such drug to covered individuals by an
99 amount that is equal to fifty per cent of the manufacturer's wholesale
100 list price for such drug.

101 (2) For the purposes of this subdivision, "manufacturer's wholesale
102 list price" has the same meaning as provided in section 21a-126 of the
103 general statutes.

104 (c) The provisions of this section shall apply to the maximum extent
105 permitted by applicable law.

106 (d) The commissioner may adopt regulations, in accordance with
107 chapter 54 of the general statutes, to implement the provisions of this
108 section.

109 Sec. 4. Subdivision (3) of subsection (m) of section 5-259 of the
110 general statutes is repealed and the following is substituted in lieu
111 thereof (*Effective October 1, 2019*):

112 (3) (A) [(i)] For the purposes of this subdivision:

113 (i) "Nonstate public employer" means (I) a municipality or other
114 political subdivision of the state, including a board of education, quasi-
115 public agency or public library, as defined in section 11-24a, or (II) the
116 Teachers' Retirement Board; and

117 (ii) "Qualified private employer" means a self-insured private
118 employer doing business in this state.

119 (B) The Comptroller shall offer nonstate public employers and
120 qualified private employers the option to purchase prescription drugs
121 for their employees, employees' dependents and retirees under the
122 purchasing authority of the state pursuant to section 1 of public act 09-
123 206, subject to the provisions of subparagraph [(E)] (F) of this
124 subdivision. [(ii) For purposes of this subdivision, "nonstate public
125 employer" means (I) a municipality or other political subdivision of the
126 state, including a board of education, quasi-public agency or public
127 library, as defined in section 11-24a, or (II) the Teachers' Retirement
128 Board.]

129 [(B)] (C) The Comptroller shall establish procedures to determine (i)
130 the eligibility requirements for, (ii) the enrollment procedures for, (iii)
131 the duration of, (iv) requirements regarding payment for, and (v) the
132 procedures for withdrawal from and termination of, the purchasing of
133 prescription drugs for nonstate public employers and qualified private
134 employers under subparagraph [(A)] (B) of this subdivision.

135 [(C)] (D) The Comptroller may offer to nonstate public employers
136 and qualified private employers that choose to purchase prescription
137 drugs pursuant to subparagraph [(A)] (B) of this subdivision the
138 option to purchase stop loss coverage from an insurer at a rate
139 negotiated by the Comptroller.

140 [(D)] ~~(E)~~ Two or more nonstate public employers or qualified
141 private employers may join together for the purpose of purchasing
142 prescription drugs for their employees, employees' dependents and
143 retirees. Such arrangement shall not constitute a multiple employer
144 welfare arrangement, as defined in Section 3 of the Employee
145 Retirement Income Security Act of 1974, as amended from time to
146 time.

147 [(E)] ~~(F)~~ (i) The Comptroller shall offer nonstate public employers
148 and qualified private employers the option to purchase prescription
149 drugs through the plan set forth in the State Employees' Bargaining
150 Agent Coalition's collective bargaining agreement with the state only if
151 the Health Care Cost Containment Committee, established in
152 accordance with the ratified agreement between the state and said
153 coalition pursuant to subsection (f) of section 5-278, has indicated in
154 writing to the Comptroller that allowing such nonstate public
155 employers and qualified private employers such option is consistent
156 with said coalition's collective bargaining agreement.

157 (ii) Such writing shall not be required if the Comptroller establishes
158 a separate prescription drugs purchasing plan or plans for nonstate
159 public employers and qualified private employers.

160 (iii) Nonstate public employers and qualified private employers that
161 purchase prescription drugs pursuant to this subdivision shall pay the
162 full cost of their own claims and prescription drugs.

163 Sec. 5. Section 38a-477cc of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective October 1, 2019*):

165 (a) [On and after January 1, 2018, no] No contract for pharmacy
166 services entered into in the state between a health carrier, as defined in
167 section 38a-591a, or pharmacy benefits manager, as defined in section
168 38a-479aaa, and a pharmacy or pharmacist shall:

169 (1) On and after January 1, 2018, contain a provision prohibiting or
170 penalizing, including through increased utilization review, reduced

171 payments or other financial disincentives, a pharmacist's disclosure to
172 an individual purchasing prescription medication of information
173 regarding:

174 [(1) the] (A) The cost of the prescription medication to the
175 individual; [.] or

176 [(2) the] (B) The availability of any therapeutically equivalent
177 alternative medications or alternative methods of purchasing the
178 prescription medication, including, but not limited to, paying a cash
179 price, that are less expensive than the cost of the prescription
180 medication to the individual; [.] and

181 (2) On and after January 1, 2020, contain a provision permitting the
182 health carrier or pharmacy benefits manager to recoup, directly or
183 indirectly, from a pharmacy or pharmacist any portion of a claim that
184 such health carrier or pharmacy benefits manager has paid to the
185 pharmacy or pharmacist, unless such recoupment is permitted under
186 section 38a-479iii or required by applicable law.

187 (b) (1) On and after January 1, 2018, no health carrier or pharmacy
188 benefits manager shall require an individual to make a payment at the
189 point of sale for a covered prescription medication in an amount
190 greater than the lesser of:

191 [(1) the] (A) The applicable copayment for such prescription
192 medication; [.]

193 [(2) the] (B) The allowable claim amount for the prescription
194 medication; [.] or

195 [(3) the] (C) The amount an individual would pay for the
196 prescription medication if the individual purchased the prescription
197 medication without using a health benefit plan, as defined in section
198 38a-591a, or any other source of prescription medication benefits or
199 discounts.

200 (2) For the purposes of this subsection, "allowable claim amount"

201 means the amount the health carrier or pharmacy benefits manager
202 has agreed to pay the pharmacy for the prescription medication.

203 (c) Any provision of a contract that violates the provisions of this
204 section shall be void and unenforceable. Any general business practice
205 that violates the provisions of this section shall constitute an unfair
206 trade practice pursuant to chapter 735a. The invalidity or
207 unenforceability of any contract provision under this subsection shall
208 not affect any other provision of the contract.

209 (d) The Insurance Commissioner may: [, (1) pursuant to the
210 provisions of chapter 697, enforce]

211 (1) Enforce the provisions of this section [,] pursuant to chapter 697;
212 and

213 (2) [upon] Upon request, audit a contract for pharmacy services for
214 compliance with the provisions of this section.

215 *Sec. 6. (Effective from passage)* (a) There is established a task force to
216 study drug reimportation. Such study shall include, but need not be
217 limited to, an examination of the feasibility of implementing a drug
218 reimportation program for the purpose of lowering the cost of
219 prescription drugs and health insurance in this state.

220 (b) The task force shall consist of the following members:

221 (1) Two appointed by the speaker of the House of Representatives;

222 (2) Two appointed by the president pro tempore of the Senate;

223 (3) One appointed by the majority leader of the House of
224 Representatives;

225 (4) One appointed by the majority leader of the Senate;

226 (5) One appointed by the minority leader of the House of
227 Representatives;

- 228 (6) One appointed by the minority leader of the Senate;
- 229 (7) The Attorney General, or the Attorney General's designee;
- 230 (8) The Comptroller, or the Comptroller's designee;
- 231 (9) The Insurance Commissioner, or the commissioner's designee;
- 232 (10) The Commissioner of Public Health, or the commissioner's
233 designee;
- 234 (11) The Commissioner of Social Services, or the commissioner's
235 designee;
- 236 (12) The executive director of the Office of Health Strategy, or the
237 executive director's designee;
- 238 (13) The Healthcare Advocate, or the Healthcare Advocate's
239 designee; and
- 240 (14) Two persons appointed by the Governor.
- 241 (c) Any member of the task force appointed under subdivision (1),
242 (2), (3), (4), (5) or (6) of subsection (b) of this section may be a member
243 of the General Assembly.
- 244 (d) All appointments to the task force shall be made not later than
245 thirty days after the effective date of this section. Any vacancy shall be
246 filled by the appointing authority.
- 247 (e) The speaker of the House of Representatives and the president
248 pro tempore of the Senate shall select the chairpersons of the task force
249 from among the members of the task force. Such chairpersons shall
250 schedule the first meeting of the task force, which shall be held not
251 later than sixty days after the effective date of this section.
- 252 (f) The administrative staff of the joint standing committee of the
253 General Assembly having cognizance of matters relating to insurance
254 shall serve as administrative staff of the task force.

255 (g) Not later than January 1, 2020, the task force shall submit a
 256 report on its findings and recommendations to the joint standing
 257 committee of the General Assembly having cognizance of matters
 258 relating to insurance, in accordance with the provisions of section 11-
 259 4a of the general statutes. The task force shall terminate on the date
 260 that it submits such report or January 1, 2020, whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	New section
Sec. 2	<i>October 1, 2019</i>	New section
Sec. 3	<i>October 1, 2019</i>	New section
Sec. 4	<i>October 1, 2019</i>	5-259(m)(3)
Sec. 5	<i>October 1, 2019</i>	38a-477cc
Sec. 6	<i>from passage</i>	New section

Statement of Purpose:

To: (1) Establish the "Connecticut Prescription Drug Program" and the "Connecticut prescription drug program account"; (2) require pharmaceutical manufacturers to send notice to the Insurance Commissioner regarding "pay-for-delay" agreements, and require health carriers and pharmacy benefits managers to reduce the cost of brand name prescription drugs that are the subject of such agreements; (3) require the Comptroller to offer qualified private employers the option to purchase prescription drugs for their employees, employees' dependents and retirees through the Comptroller's purchasing authority; (4) prohibit any health carrier or pharmacy benefits manager from recouping any portion of a claim that such carrier or manager has paid to a pharmacy or pharmacist; and (5) establish a task force to study drug reimportation.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]